IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.342 OF 1999

The Commissioner of Income-tax ..Applicant.

V/s.

M/s.Ingersoll Rand (India) Ltd. ..Respondent.

Mr.Ashok Kotangale for applicant.

Mr.Shoaib Khan for respondent.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 25TH OCTOBER, 2005.

P.C. :-

1. The Tribunal has referred the following question under section 256 (1) of the Income Tax Act for the reference of this Court :-

1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the premium paid under the group medical scheme does not form part of perquisites for the purpose of making disallowance u/s.40(c) / 40A (5) of the I.T. Act, 1961 ?

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law holding that the assessee would be entitled for deduction of Rs.8,30,154/- being the equity share issue expenses and

Rs.49,515/- being legal expenses incurred in connection with issue of equity shares ?"

2. The learned counsel appearing for the Revenue submits that the said issue is covered by the Judgment of the Apex Court in the case of **C.I.T. V/s. Mafatlal Gangabhai Co.(P.) Ltd. [(1996) 219 I.T.R. 644 (S.C.)]**. He further submitted that the same view has been taken by the Punjab & Harayana High Court in the case of **H.M.M. Ltd. (formerly known as Hindustan Milk Food Manufacturers Ltd.) V/s. C.I.T. [(2001) 252 I.T.R. 842 (Punjab & Haryana)]**. He also points out that the same view is taken by the Calcutta High Court in the case of **Indian Oxygen Ltd. V/s. C.I.T. [(1994) 210 I.T.R. 274]**.

3. In this view of the submissions made by the learned counsel for the Revenue, the questions referrned hereinabove are required to be answered in favour of the assessee and against the Revenue.

4. The reference stands answered accordingly with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)